

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

JASON COUNTS, *et al.*, individually,  
and on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

GENERAL MOTORS LLC,

Defendant.

C.A. No. 1:16-cv-12541-TLL-PTM

Judge Thomas L. Ludington  
Magistrate Judge Patricia T. Morris

**STIPULATED ORDER REGARDING DISCOVERY AND PRODUCTION OF  
ELECTRONICALLY STORED INFORMATION AND  
HARDCOPY DOCUMENTS**

The parties hereby stipulate to the following provisions regarding the discovery of electronically stored information (“ESI”) and, where noted, hard copy documents, in this matter:

**I. Identification of Responsive Documents and ESI**

- A. Preservation and Collection. The parties have taken and will continue to take reasonable steps to preserve and collect reasonably accessible documents and data from custodians and non-custodial sources they have identified as potentially possessing relevant information.
- B. Search Protocol. In an attempt to minimize e-discovery costs and disputes, the parties will meet and confer and attempt to agree upon custodians whose files will be searched, search terms or the use of technology assisted review tools

(TAR) to identify relevant ESI, and the appropriate date ranges for all document reviews and productions.

## **II. Privilege**

- A. Time Limitations. With respect to attorney-client privileged communications or work-product information generated after the filing of the complaint, the parties are not required to include any such information in privilege logs.
- B. Information to Be Logged. The parties agree that if email strings are identified as privileged, only the metadata at the top of the string need be included on the log, although the parties agree that if there are any third parties included on any portion of the string withheld, those third parties will be identified in the log entry.
- C. Limitations and Non-Waiver. Information produced pursuant to this Order that is subject to a claim of privilege is governed by the Confidentiality Agreement and Protective Order, entered by the parties on October 10, 2017.

## **III. Electronically Stored Information (ESI)**

- A. De-Duplication. ESI will be de-duplicated across custodians following industry standard de-duplication algorithms, where appropriate. A list of identified custodians or sources having a copy prior to de-duplication will be populated in the ALL\_CUSTODIANS field.

- B. Reasonably Accessible Sources. The parties have taken reasonable steps to identify and/or collect potentially responsive ESI stored on reasonably accessible sources. The parties will assume no obligation to produce deleted, shadowed, fragmented, residual data, or cached, temporary files, random access memory (“RAM”) or ESI that would only be obtained by taking a forensic image of a hard drive.
- C. Design Data. GM’s electronic CAD data constitutes highly confidential, commercially sensitive trade secrets. If requested, GM will search for both 2D and 3D design information for the particular component/system at issue. If located, GM will produce the 2D drawing, a jpeg image of the 3D CAD, or both (if available), pursuant to an appropriate confidentiality protective order. If Plaintiff seeks production of GM’s highly confidential, commercially sensitive CAD data in a 3D electronic format, GM will require a specific protective order governing such highly confidential electronic trade secret information. If a sufficient protective order is issued governing highly confidential trade secrets, GM will produce 3D electronic CAD data files in JT file format for the relevant components/systems of the subject vehicle, if available.

#### **IV. PRODUCTION FORMAT**

- A. Hard Copy Information. The parties will produce hard copy or paper documents as Bates-numbered, single-page Group IV TIFF images. To the extent practicable, hard copy scanned images shall be produced in the manner in which those documents were kept in the ordinary course of business. Where hard copy scanned images have identification spines, “post-it notes,” or any other labels, the information on the label shall be scanned and produced to the extent practicable.
- B. Electronically Stored Information (ESI). The parties will produce ESI, whenever possible, in single-page Group IV TIFF image named as the Bates number. Page level Bates numbers will be branded in the lower right of the image and additional legends applied to the lower left or lower center (if applicable). The following formatting will be applied to Microsoft Office documents:
1. Word Documents will be imaged showing Track Changes.
  2. Excel files with redactions will be imaged un-hiding any hidden rows and/or columns and/or sheets.
  3. PowerPoint files will be imaged in Notes Pages.
- C. Native Files. In addition to TIFF images, native files will be provided for PowerPoint and JPG when corresponding images and any embedded items are

not redacted. For files that cannot be imaged (e.g., .wav, .mpeg, .avi) or become unwieldy when converted to TIFF (e.g., source code, large diagrams, etc.) the producing party will produce a placeholder (a single-page TIFF slip-sheet indicating that the native item was produced) along with the file itself in native format. Excel and CSV files will only be provided in native format with a placeholder, unless they have redactions. Redacted documents will be produced in TIFF format. The native file will be named as the first Bates number of the respective document. The corresponding load file shall include native file link information for each native file that is produced. If a party, with good cause, requests that certain individual documents be reproduced in native format, the producing party will produce the native version where available and appropriate.

D. File Types. The Parties agreed that the collection, processing, and production of the following would not be proportional to the needs of the case:

1. “Deleted,” “slack,” “fragmented,” or “unallocated” data on hard drives;
2. Random access memory (RAM) or other ephemeral data;
3. Online access data such as temporary internet files, history, cache, cookies, etc.;
4. Data in metadata fields that are frequently updated automatically, such as last-opened dates;
5. Backup data that is substantially duplicative of data that is more accessible elsewhere;

6. Server, system or network logs;
  7. Data remaining from systems no longer in use that is unintelligible on the systems in use; and
  8. Other forms of ESI, the preservation of which requires extraordinary affirmative measures that are not utilized in the ordinary course of business.
- E. Redactions. Documents containing redactions (e.g., pursuant to attorney-client privilege) will be produced in TIFF image format. OCR reflecting redactions will be provided in text files, except in the case of a redacted native document, which will be provided without extracted text. When a document is redacted or withheld for attorney-client privilege or work product, all metadata on a family level is excluded from the metadata file (.DAT). The only fields which should remain in the metadata load file are BATES\_BEGIN, BATES\_END, ATTACH\_BEGIN, ATTACH\_END. Documents with embedded objects that are redacted or withheld from production will be produced in TIFF image format.
- F. Confidentiality Designations. If a particular document has a confidentiality designation, the designation shall be stamped on the face of all TIFF images pertaining to such document, in the lower left-hand corner of the document, or as close thereto as possible while preserving the underlying image. If the Receiving Party believes that a confidentiality stamp obscures the content of a document, then the Receiving party may request that the document be

produced with the confidentiality designation in a different position. No party may attach to any filing or any correspondence address to the Court (including the Magistrate Judge), or any adverse or third party, or submit as an exhibit at a deposition or any other judicial proceeding, a copy (whether electronic or otherwise) of any document produced by any Producing Party without ensuring that the corresponding Bates number and confidentiality legend, as designated by the Producing Party, appears on the document.

G. Text. Document-level text files will be provided for each document produced.

Text files will be named as the first Bates number of the respective document.

Extracted text will be provided where it exists for non-redacted documents. OCR

Text will be provided for PDFs with no extracted text, TIFF files, JPEG files,

PNG files, or when the document is redacted.

H. Related Documents. Email attachments will be extracted and related back to the respective email via the ATTACH\_BEGIN field referenced in Appendix A. Embedded ESI documents (e.g., a spreadsheet embedded within a word processing document) will be extracted where feasible, and related back to the respective top level parent document (e.g., standalone file, email message) via the ATTACH\_BEGIN field referenced in Appendix A. Related documents will be produced within a continuous Bates range.

- I. Images. Page-level Bates numbers will be branded on TIFF images and additional legends applied where applicable. To the extent produced, native files will be named as the Bates number.
- J. Metadata. Load files in standard Concordance delimited format with field header information added as the first line of the file will be provided with each production. Documents will be produced with related metadata (to the extent it exists) as described in the attached Appendix A specifications, unless as otherwise provided herein.
- K. Encoding Format. Text files, Concordance load files, and Opticon image reference files will be provided in UTF-8 encoding.
- L. Image Cross Reference. A standard Opticon cross-reference file will be provided linking the Bates number to the TIFF images and the Concordance load files.

1. Format:

<Bates Number>,<Not Required >,<Relative Path to TIFF Image>,<Y if First Page of Document, Else Blank>,,,<If First Page of Document, Total Page Count>

2. Example:

GM000000001,.\IMAGES\001\GM000000001.TIFF,Y,,,2  
GM000000002,.\IMAGES\001\GM000000002.TIFF,Y,,,  
GM000000003,.\IMAGES\001\GM000000003.TIFF,Y,,,1



- M. Structured Data. GM retains documents in repositories and structured databases. GM may produce documents from the repositories in TIFF or another reasonably usable format. In the event that either party requests data contained in structured databases, the parties will meet-and-confer regarding a reasonably usable format for production.
- N. Delivery. All productions of ESI and Hard Copy documents shall be sent to the opposing party on an encrypted CD, DVD, hard drive, or other electronic media, or via FTP. Production to the following addresses by a party shall be deemed sufficient to constitute production to all parties:

1. Production to Plaintiffs:

Hagens Berman Sobol Shapiro LLP  
Attn: Carrie Flexer  
1918 8th Ave. Ste. 3300  
Seattle, WA 98101  
carrie@hbsslaw.com

2. Production to GM:

Kirkland & Ellis LLP  
Attn: Renee Smith  
300 North LaSalle Street  
Chicago, IL 60654  
renee.smith@kirkland.com

**SO ORDERED.**

Dated: October 13, 2017

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

DATED: October 10, 2017

**STIPULATED AND AGREED BY:**

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*Attorneys for Plaintiffs*

## Appendix A

Field	Description
BATES_BEGIN	First bates number assigned to the first page of the document.
BATES_END	Last bates number assigned to the last page of the document.
ATTACH_BEGIN	First bates number assigned to parent.
ATTACH_END	Last bastes number assigned to the last child.
PAGE_COUNT	Number of images provided for the document
CUSTODIAN	Individual/Source assigned to the record at collection time
ALL_CUSTODIANS	Additional custodians who had a copy prior to de-duplication.
DOC_TITLE	File property Title
DOC_SUBJECT	File property Subject
CREATED_DATETIME	File system create date and time (MM/DD/YYYY 12:00 PM) [Normalized to UTC]
LAST_MODIFY_DATETIME	File system last modify date and time (MM/DD/YYYY 12:00 PM) [Normalized to UTC]
LAST_SAVED_BY	File property Last Saved By
DOC_TYPE	Category of file (e.g. MSG, ATTACH, USERFILE)
FILE_TYPE	Type of file (e.g. Word, Excel)
FILE_NAME	Name of file.
FULL_PATH	Path to file as collected.
FILE_EXT	Extension of the file.
AUTHOR	Email FROM value.
CC	Email CC value.
BCC	Email BCC value.
RECIPIENT	Email TO value.
DATETIME_SENT	Date and Time email sent (MM/DD/YYYY 12:00 PM) [Normalized to UTC]
DATETIME_RECEIVED	Date and Time email received (MM/DD/YYYY 12:00 PM) [Normalized to UTC]
DATETIME_APPT_START	Date and Time email calendar item start (MM/DD/YYYY 12:00 PM) [Normalized to UTC].
EMAIL_FOLDER	Folder where email resided within email container.
SUBJECT	Email Subject value.
MD5_HASH	Hash of native file.
Redaction	Indicator of Yes where a document contains any redaction.
TEXT_LINK	Relative path to the document level text file (e.g. \TEXT\0001\GM0000000001.TXT)
NATIVE_LINK	Relative path to native file (if produced). (.e.g. \NATIVES\001\GM0000000001.XLS)

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 13, 2017.

s/Kelly Winslow  
KELLY WINSLOW, Case Manager